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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/822,264	04/12/2004	Robert J. Acord	C1140	2691
7590	08/09/2005		EXAMINER	
Donald Cayen Suite 502 104 South Main Street Fond du Lac, WI 54935			WIEHE, NATHANIEL EDWARD	
			ART UNIT	PAPER NUMBER
			3745	
DATE MAILED: 08/09/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/822,264	ACORD, ROBERT J.	
	Examiner Nathan Wiehe	Art Unit 3745	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 12 April 2004.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-38 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-7,9,11-16,18-20,22-25,28-35 is/are rejected.  
 7) Claim(s) 8,10,17,21,26,27,36,37,39 and 40 is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 12 April 2004 is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>07152004</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### ***Information Disclosure Statement***

1. The information disclosure statement (IDS) submitted on 07/15/2004 is noted.

The submission is in compliance with the provisions of 37 CFR 1.97 and 1.98.

Accordingly, the information disclosure statement is being considered by the examiner.

### ***Claim Objections***

2. Claim 19 is objected to because of the following informalities: in b, "net first end defines" is taken to mean --net second end defines--. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 2, 5-7, 9, 15, 16, 20, 22, 24, 25, 28, 32-34 and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goldwater (4,684,817) in view of DeBerg (4,191,507). Goldwater discloses a wind machine comprising; a frame, including a base (not referenced), a carrier (1), and first and second arms (7,6); and a net including a plurality of panels (3) pivotally connected, by tabs (not referenced), in rows which overlie each other. The net of Goldwater's invention is installed in tension, the panels pivot between open and closes positions and the shaft axis of rotation is vertical. However, Goldwater does not disclose a removeably supported net. DeBerg teaches

the use of removeably supported fabrics (22) in order to easly install and remove fabrics. DeBerg discloses a fabric including a continuous loop (44), formed by doubling the fabric over onto itself, along the first end slideable on the carrier first arm (28). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Goldwater's fabric by including a slideable support loop as taught by DeBerg so that the fabrics can be easily installed and removed.

5. Claims 3, 4, 18, 19, 23 and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goldwater in view of DeBerg as applied to claim 1 above, and further in view of Florence (6,345,944). Goldwater as modified in the rejection of claim 1 discloses the invention substantially as claimed except for the use of flexible materials at the fabric's first and second ends. Florence teaches a net including a piece of flexible material (14) attached on the net's (12) second end including holes (30) and corresponding studs (not referenced) for removably securing the net. Florence also teaches the use of a flexible material (14) attached to the first end of the net (12) in the form of a loop (44) for removably securing the net. It would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify the fabric of Goldwater by including flexible materials attached to the net's first and second end and securing studs on the carrier second arm as taught by Florence for removably securing the net.

6. Claims 11, 13, 14, 30 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goldwater in view of DeBerg as applied to claim 1 above, and further in view of Yu (6,853,096). Goldwater as modified in the rejection of claim 1 discloses

the invention substantially as claimed except for multiple panels in a row and the panels being connected to horizontal strands. Yu teaches rows of multiple panels (10) that can be attached to horizontal strands (4a) or vertical strands (4b) in order to cover the entire surface of the fabric (4). It would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify the fabric of Goldwater by including multiple panels in each row and attaching the panels along a horizontal strand as taught by Yu in order to cover the entire surface of the fabric.

7. Claims 12 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goldwater in view of DeBerg as applied to claim1 above, and further in view of Lord (6,413,038). Goldwater as modified in the rejection of claim 1 discloses the invention substantially as claimed except for the carrier axis of rotation being horizontal. Lord discloses a windmill (10) with a shaft (78) rotating in the horizontal axis in order to operate in an environment where the wind is generally directed in a first direction. It would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify the shaft axis of rotation in Goldwater to horizontal as taught by Lord so that the windmill will operate in an environment where the wind is generally directed in a first direction.

***Allowable Subject Matter***

8. Claims 8, 10, 17, 21, 26, 27, 36, 37, 39 and 40 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nathan Wiehe whose telephone number is (571)272-8648. The examiner can normally be reached on M-F.
10. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Look can be reached on (571)272-4820. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.
11. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Nathan Wiehe  
Examiner  
Art Unit 3745



EDWARD K. LOOK  
SUPERVISORY PATENT EXAMINER  
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8/5/05